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RESPONSE OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY TO THE REQUEST FROM THE STATE OF NEVADA FOR A DISASTER DECLARATION

HEARING

BEFORE THE

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE

OF THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

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RESPONSE OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY TO THE REQUEST FROM THE STATE OF NEVADA FOR A DISASTER DECLARATION

WEDNESDAY, JUNE 8, 1988

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION,
AND INFRASTRUCTURE,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:20 a.m., in room 406, Dirksen Senate Office Building, Hon. Daniel Patrick Moynihan (chairman of the subcommittee) presiding.

Present: Senators Moynihan, Reid, Symms, and Pressler.

OPENING STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, U.S. SENATOR FROM THE STATE OF NEW YORK

Senator MOYNIHAN. A very good morning, and especially to you, Congressman. You were very kind to come over for this occasion.

Mr. BILBRAY. The same to you.

Senator MOYNIHAN. This is a hearing of the Subcommittee on Water Resources, Transportation, and Infrastructure that is convened at the request of our distinguished member, my friend Senator Reid, who was concerned about the response at the Federal Government level to the explosion which took place at Henderson, Nevada.

An explosion which has, as we learned more recently, some very important implications for the space program. I think Senator Reid was mentioning that just a moment ago. The question was, what would be the Federal response, and as we know, Nevada is a very large State, a scarcely populated one, and one where an occasion of a very considerable number of injuries and mortalities would place particular stress on a health emergency system that might not be the case in a more densely populated area—many questions, including the question of what happened in an area of national security.

Senator Reid made inquiries. He was not all satisfied with the answers he got, and felt there was a lack of forthcomingness on the part of officials of the Federal Emergency Management Administration. He brought that to the attention of the committee. Senator Reid and I have had an informal meeting with General Becton and

others, but it seemed a serious enough matter to convene a formal meeting of this committee, which we now do.

Senator Reid, would you like to make an opening statement?

OPENING STATEMENT OF HON. HARRY REID, U.S. SENATOR FORM THE STATE OF NEVADA

Senator REID. Thank you very much, Senator Moynihan.

Just in passing, I haven't had the opportunity to tell you that I am happy to be on your subcommittee. I chose your subcommittee because of the reputation that you held good meetings. The meetings have been probative. They have been on interesting subject matters. I look back at the great hearing that we had on the Maglev train, where we had the two men here that invented that back in 1962——

Senator MOYNIHAN. Yes, that will get you to Las Vegas and Los Angeles yet.

Senator REID. It reminds me of a subcommittee that I served on in the House of Representatives in the Science and Technology Committee. I was told that Senator Gore, who chaired the Investigations and Oversight Subcommittee, conducted great hearings, so I, because of that, got on the subcommittee, and it was interesting and educational, and I found that to be the same here. In fact, your reputation as chairman of this subcommittee is known all over the Senate.

I appreciate, therefore, your holding this hearing. In this hearing today, as you have indicated, we are going to look into the manner in which FEMA has executed its mandated responsibilities under the Disaster Relief Act of 1974. By executive order in 1974 the President delegated the primary responsibility for administering the Disaster Relief Act to the Director of the Federal Emergency Management Agency.

The President's declaration of a major disaster is important because it authorizes Federal assistance under the Disaster Relief Act of 1974 and triggers other disaster relief programs. Under the program, a community touched by a tragedy can begin the recovery process.

In short, I am deeply troubled by the agency's handling of Nevada Governor Bryan's request for disaster assistance following the May 4 explosion of the Pacific Engineering and Production Company in Henderson, Nevada. Henderson, Nevada, is a suburb of Las Vegas.

Henderson, Nevada was developed during the Second World War, principally for production of magnesium-related products, principally bombs or bomb components, and at that time Henderson literally was in the middle of nowhere. In the 45 years since that desert complex was developed, civilization has moved around it and now it is in the middle of a populated area. In fact, the little city of Henderson now has over 50,000 people in it, and they are moving in around this industrial complex.

Pacific Engineering is a manufacturer of an essential ingredient of solid rocket fuel. I have had a number of conversations since the explosion with the head of the National Aeronautics and Space Administration, Jim Fletcher, and he is very concerned, and his con-

cern is elaborated today in national press accounts indicating that our space program may be set back, some say as much as 2 years, as a result of not having this product. The space program was on its knees anyway, and certainly this is not going to help it.

Interestingly enough, this country had two producers of ammonium perchlorate. They were both located in Henderson, Nevada, both within a stone's throw of one another, and we are fortunate that the other one didn't explode as a result of the explosion that took place in Henderson.

To show how little we know about the product itself, Mr. Chairman, the experts who came to look at Kerr-McGee—which is the only remaining producer of this ammonium perchlorate which is used in this solid rocket fuel, and is now not producing because they want to make sure that it is safe—the experts who came to review the production of this product, at the press conference indicating that Kerr-McGee was safe, stated that they still don't know why it exploded because the scientists said that it couldn't explode.

The methods used by FEMA to disseminate information to Nevada officials, I would say are at very least questionable, and I would suggest could be unscrupulous.

The tragic explosion of the plant resulted in the deaths of two people. Mr. Chairman, I went to the hospital that is in Henderson, called St. Rosa de Lima, the next morning after this explosion. The administrator of the hospital had heard the first small explosion. He walked outside. There were subsequently three explosions. Each explosion knocked him to the ground. He would get up. He would be knocked down again.

He, of course, went to the hospital. By the time he got to the emergency room, which was a minute away from where he was standing, the windows were out of the hospital on the one side of the building. They have since had to close one of the clinics. One of the wings, literally the windows are all out of it.

He said if the first person had come to him and said, "There are 200 dead people," he would have said, "Is that all?" This explosion was so significant. It resulted in the deaths of only two people, the reason being, the fire occurred first, and people were able to run away.

I talked to one man the next morning who was in the hospital with a broken back. He worked in an adjoining marshmallow plant, Kidd marshmallow manufacturing plant, which was leveled. He explained to me in very graphic terms how he ran from the marshmallow plant, was knocked to the ground, his back broken, but he continued to get up three more times and continued to run with a broken back.

There were more than 350 injuries to people, and at least 7,500 homes were damaged, and over 10,000 insurance claims have been filed to this date. We don't know the amount of damage but it is estimated in excess of $75 million, at least.

As described in one Las Vegas newspaper editorial, "This scenario has the stench of partisan politics in an election year." Therefore, Mr. Chairman, a very brief outline of events will demonstrate the need for this hearing.

On May 9 the Governor of Nevada requested the President to declare a major disaster for Nevada as a result of a catastrophic tech-

nological accident. On May 18, 9 days later, Governor Bryan was informed by FEMA Congressional Affairs in Washington that a decision on the request would be made within 48 hours. Forty-eight hours later the Governor was informed by another FEMA official that the first official had spoken prematurely, as the agency was still reviewing the State's application.

Subsequent inquiries of FEMA by my office were not productive in securing additional information, so I arranged a meeting with Federal Emergency Management Agency officials in my office on May 24, approximately 3 weeks after the explosion. At that meeting, FEMA officials pointed out that FEMA policy directives made it impossible to divulge any specific information about the State's request because of the existence of "political pressure points."

Senator MOYNIHAN. Political pressure points?

Senator REID. Yes. I was assured—and that is a direct quote—I was assured, however, that the Governor's request was going through appropriate review channels.

Mr. Chairman, the next chain of events are reminiscent of a plot from a Keystone Cops episode. Were the lives of Nevada citizens not severely impacted by the fiasco, I would simply conclude it was typical campaign fodder.

Las Vegas newspaper articles cited a second investigative visit to the Henderson site by a different regional FEMA office, scheduled to take place the following day. Now keep this in mind: FEMA officials were in my office. Within a matter of less than 2 hours from leaving my office, an announcement was made that there would be a second investigation by another FEMA regional office. The one office, I guess, I didn't get them the information they needed or wanted or thought should be made. Therefore, they had another office come and do this.

I, of course, wasn't told about this. I wasn't aware of this second visit until my staff contacted FEMA to ask about news reports. I would conclude that the second site visit was already scheduled when FEMA officials were in my office. If not, that bureaucratic morass isn't as complicated as I thought.

Remember, less than 2 hours later an announcement was made in Nevada that a second visit would take place by FEMA, not by White House officials but by FEMA officials. They failed to acknowledge this to me, although my Nevada colleague in the Senate made the announcement of the second visit, as I indicated, a short time after the FEMA officials left my office.

According to FEMA, the purpose of the second visit by Region 6 officials from Texas was to consider new evidence which had surfaced. FEMA advised my office that Region 6 would provide an unbiased inspection in the event that the State appealed FEMA's decision. I understand from FEMA that this second visit to a disaster site is unprecedented.

As quoted in the news, the second visit was requested by my colleague from Nevada because he was not happy with the indications presented in FEMA's first report on the disaster. Now keep in mind that no one else saw this report, but my colleague wasn't happy with it. Not only was I not made aware of the existence of this first report, but I wasn't even aware of the policy which permitted review of such reports and requests for second opinions.

Further, no other Nevada officials are privy to the contents of the report or the mere fact of its existence.

By letter and in person, I voiced my concern about this process to General Becton, Director of the agency. General Becton assured me that I was not misled by FEMA officials, nor did FEMA turn the request for disaster assistance into a political issue. I suggest, Mr. Chairman, that we are splitting hairs. Even if FEMA did not directly divulge any information about the agency's findings on a selective basis, someone, somewhere in the process, certainly did, and I have to think for perceived political gain.

I stop and pause—if I hadn't called General Becton into my office to find out what was going on—I must have sped up the process. This contradicts stated Federal policy, is wrong, and it must be corrected. I question how this process has gone awry—a process that is supposed to be nonpartisan and address the emotional and physical needs of a community shaken by disaster.

General Becton, certainly Senator Moynihan and I don't question your integrity, but the process is being used improperly. Those people—and I expressed this to you in Senator Moynihan's office—the people killed, I don't know if they were Democrats or Republicans. The man that I visited in the hospital with a broken back, I didn't ask him if he was a Democrat or Republican. Those people whose homes were damaged, I don't know if they were Democrats or Republicans. It should be no concern of me or of your agency. I think it is wrong that this matter has gotten into the political arena because it takes away from the purpose of this act back 14 years ago.

Press accounts of FEMA's second site inspection essentially dismiss any need for disaster declaration, noting that much of the damage is covered by private insurance. Now it is interesting to note, Mr. Chairman, that FEMA representatives in Nevada were quoted in the press all over Nevada, saying there will be no disaster assistance.

I don't know whether or not that will be the case, but to this day, to this minute, to my knowledge, as of a half hour ago the White House has still not made a decision on whether or not this is a disaster. Still, they haven't made a decision. To date, the citizens of Nevada haven't been given the courtesy of at least when to expect a decision on the disaster declaration, and I have to submit, Mr. Chairman, that the dead, the injured, and more than 7,500 homeowners and businesses damaged by the disaster, deserve no less.

There isn't anything, Mr. Chairman, that we are going to be able to do to help the people in the disaster that took place in the City of Henderson, but hopefully in the future we can do something so this doesn't happen to other communities. No one knew it was going to take place in an election year. It just happened, and an explosion that takes place in an election year should be treated no differently than an explosion that takes place in a nonelection year.

This matter, through the oversight of this committee and the Congress, we have to make sure that when you are dealing with people's lives and property, that it is taken out of the political process. Not only do we have to do away with what is political but also what appears to be political, and so I again extend to you my ap-

preciation for holding this hearing. I look forward to the hearing today and the evidence that will be presented, so that we can report to the full committee and to the Senate as to corrections that need to be made.

Senator MOYNIHAN. I thank you, Senator, and want to thank you for bringing this to the committee's attention.

Just one supplementary statement: Senator Reid came to me about two weeks ago and described the bizarre nature of these events, and raised the question, could it be, it wasn't his view, but could it be that political considerations were determining the set of decisions about a plain emergency, a disaster, clearly a disaster? The Federal Government was involved. These were Federal contractors, basically.

We had a private meeting with General Becton, who could not have been more forthcoming, as he always is before this committee, but I know he wants to see that the integrity of his operation is maintained, just as we do.

So to begin our hearing we have the great pleasure to welcome our collealgue from across the way, Representative Bilbray, if you will just proceed, sir, as you wish.

STATEMENT OF HON. JAMES H. BILBRAY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEVADA

Mr. BILBRAY. Thank you, Mr. Chairman, and thank you, Senator Reid.

Before I briefly outline the events that Senator Reid has stated, I would like to reemphasize some of the points. I would like to thank again Senator Reid for his concern and hard work for the citizens of southern Nevada, who have suffered immensely.

On May 4, 1988, as Senator Reid stated, the southern Nevada community of Henderson—by the way, where Harry Reid was student body president when in high school—suffered a series of fires and explosions at a rocket fuel plant which killed two and left more than 350 injured. The devastation wrought extensive damage as far as 12 miles from the site of the explosion in Las Vegas. In fact, my residence is near the corner of Eastern and Desert Inn Road, which is 7 to 8 miles away, and my windows were burst out of my house.

A 5-square-mile toxic cloud created by the fires that was floating above the valley all afternoon and was felt by the residents of the towns of Moapa, Logandale, and Overton, Nevada. No one knew exactly what was in that cloud. It was of a poisonous nature and was floating over our whole community for a whole afternoon.

Schools were closed and hundreds of residents were evacuated. One report indicates a ring of destruction 8 miles wide. I went over there and inspected that, Mr. Chairman, right afterwards, and I remember the area looked like "The Day After." Car bodies were twisted, their frames bent. The building, fires were still burning on a low level in some of the areas. It was like nothing you have ever seen.

Firemen told me about people wandering the desert for miles around who could not hear a thing because of severely bruised eardrums. They were picking them up right and left for hours after

the explosion because people, as Senator Reid has stated, just started running across the desert, just started running and running and running, and sometimes had 15 to 20 minutes before the explosion hit. People told me, that were 2 miles away, of hearing a noise, looking out, and were being blown off their feet, knocked over hedges, knocked over walls—as one fireman told me, the equivalency was like a 1 kiloton bomb going off.

The blast destroyed the Pacific Engineering and Production Company—PEPCON—as well as the Kidd and Company marshmallow factory contiguous to the rocket fuel plant, and it is utterly destroyed. I took Chairman Aspin from the Armed Services Committee out in the area. We flew over it. He was shocked. I mean, it was utter devastation. It wasn't just a minor explosion.

The shock waves from the explosions, which registered in California 3.5, in Pasadena, overturned automobiles——

Senator MOYNIHAN. Good God! I mean, that would be 280 miles away in Pasadena.

Mr. BILBRAY. That's right, at 3.5 on the Richter scale in Pasadena, California.

Senator MOYNIHAN. This took on the geological characteristics of an earthquake.

Mr. BILBRAY. That's correct.

Residents who have contacted my office have compared the impact of the explosions to the above-ground detonations of nuclear weapons at the Nevada test site in the fifties, which they also witnessed.

The damage caused by the explosion is estimated in excess of $73 million, and I think it's way in excess because a lot of people have not turned in minor damage claims, and a lot of structural damage has been done to residences within three or four miles of that plant that will probably not be known for many years.

Upon hearing of the disaster, the appropriate Federal officials arrived in Henderson to tour the blast. FEMA began working with State and local officials in Henderson to make damage estimates for possible Federal disaster relief a day after the explosions at the PEPCON chemical plant. I met with them. And I met with representatives of the Small Business Administration.

At that early meeting they questioned, because they gave me the guidelines, whether or not it would meet this requirement because of the fact that so many were insured. I pointed out that in many cases, especially in governmental buildings, library structures and such, that the entities because of high, excessive insurance rates over the last few years have had to self-insure, and it would be a devastating loss to the community of Henderson and some of the surrounding areas, of physical facilities that were lost.

I commend FEMA for getting to the disaster promptly and reviewing the explosion. However, since May 4th we have had to sit idly by while the Federal bureaucracy and politics delays a decision that is a matter of immense importance to the residents. Two weeks after the blast, FEMA had not responded to the request by Governor Bryan for Federal assistance, while it took only 4 days to approve disaster relief when parts of northern Nevada were flooded in 1986. I am still awaiting a decision from FEMA.

Additionally distressing to me is the interjection of politics.

Senator MOYNIHAN. Mr. Bilbray, would you mind, just to help me on this, the explosion took place May 4th. It was clearly an unprecedented event. It was registered on the Richter scale in Pasadena, California.

Mr. BILBRAY. That is correct.

Senator MOYNIHAN. And on May 7th the Governor requested emergency assistance. Is that right?

Mr. BILBRAY. Yes, that's correct.

Senator MOYNIHAN. And it is now June 8th, isn't it?

Mr. BILBRAY. That is right. We have not heard anything.

Senator MOYNIHAN. You have not heard anything?

Mr. BILBRAY. That is correct. In fact, my office has called. In fact, when the second decision was make to send the next team out, which we knew nothing about—I didn't know anything about it, Senator Reid didn't know anything about, I don't think Congresswoman Vulcanovich knew anything about it—we called their office and we asked them. I said, "Would you tell us one thing?" My staff asked them. "Was this decision made by the White House, was it made by FEMA? Who made the decision to send a second team out?"

Senator MOYNIHAN. Yes, yes.

Mr. BILBRAY. And the answer was, "We are not at liberty to tell you that."

Senator MOYNIHAN. They are not at liberty to tell a Member of the Congress?

Mr. BILBRAY. They said, "We can't tell you that," whether it was made at the White House level or by the agency, and that's what staff told us. I mean, you can imagine how we feel at this point.

I know Senator Reid and myself, are trying to help our constituents, and I hope that in future administrations, whether that is a Democratic administration or a Republican administration—and if it is a Democratic administration—that they get treated a little better than we have, because we are looking out for the interests of our people. We just want to find out, are our people entitled to relief? This is a plant that was producing strategic chemicals for the military and the Government, right in the middle of an urban ara, blew up, and we need help, and we can't find the answer. We have called repeatedly, on a daily basis. We were never informed of many of the facts going on. We get the run around, and that is what has been happening. That is why, I know, that Senator Reid finally reached the point where he had it up to here with this whole situation. We need to know the answers.

I told the public, a day after I met with FEMA the first time, that I was very pessimistic about FEMA helping us, but the fact is we weren't willing to give up at that point. But the fact is, for over a month now there has been no decision, and I can only feel this is for political reasons. There can't be any other logical reason for the delays that are being made.

You know, we want to ask, and here are some questions I have for FEMA. Hopefully you will maybe get these responses.

Did FEMA or the White House decide on the necessity of a second investigation?

Who in FEMA made that decision, if the decision was made by FEMA? If it was made by the White House, who in the White House made that decision?

Did FEMA recommend to the White House the need for a second trip to southern Nevada?

Why weren't the offices of Senator Reid and myself or the Governor of Nevada notified prior to the second FEMA visit? We would have liked to have participated in that visit or had some part in it, some recommendations from the Governor's office of things to look at.

Are duplicate or repetitive investigations standard for FEMA? How common are second visits?

What was the rationale or premise for a second investigation? Is that rationale one that is commonly use for repeated visitations?

What new evidence or information was gathered as a result of the second trip? Was the evidence or information gathered of significance? Was it important enough to warrant the expenditures entailed in a second visit?

These are questions I think have to be answered. If they can't be done today—and I hope they can be, by oral testimony—I hope they can be done by written explanation to the committee with a copy forwarded to my office.

Thank you, Mr. Chairman.

Senator MOYNIHAN. Well, sir, we are exceptionally in your debt. That is a very lucid, straightforward, and baffling count of events. Something of this order, involving as you say a national security activity, an event of—I mean, you were very graphic, that it got picked up on earthquake detecting devices in Pasadena—and more than a month has gone by and nothing has happened, and you can't find out why. Sir, all I can say is, you are a model of self-control.

Mr. BILBRAY. Well, Mr. Chairman, you know when we come to Congress people think we can get answers to everything. With this frustrating experience, I hope the public realizes that sometimes we Congressmen get just as frustrated as the general public does in dealing with the bureaucracy of government. Hopefully, if nothing else happens out of these hearings, the FEMA in their dealings with other disasters throughout this country will not take such a cavalier attitude.

Senator MOYNIHAN. I wanted to ask you one thing before we turn to your colleague and friend. Is it your impression that political considerations may have been involved in the responses you did not receive?

Mr. BILBRAY. Absolutely. We have a very hotly contested Senate race going on in the State of Nevada between Senator Hecht and Governor Bryan, and I believe that for whatever reason—either coming from the White House or someone within FEMA—they have decided to use the disaster in southern Nevada as a political football. I think that is wrong and it should not be allowed.

Senator MOYNIHAN. I am sorry to have heard that from you, and I greatly appreciate your courtesy in coming before this committee and testifying. If there is one thing, if there is any activity in which there is no politics, it is in response to disasters and in care

of the injured. It is--well, I am going to control myself and at this point turn the questioning over to your colleague and my friend.

Senator REID. I have no questions of Congressman Bilbray. Your questions, though, will be asked. I have a copy of them. I think they are very good. Your statement was forthright, as Chairman Moynihan has indicated. I appreciate your time.

Mr. BILBRAY. Thank you very much.

Senator MOYNIHAN. We have those questions and they will be answered, sir.

Mr. BILBRAY. Thank you, Mr. Chairman, Senator Reid.

Senator MOYNIHAN. Our next witness, is Mr. Robert King, who is the Director of the Division of Emergency Management of the State of Nevada.

Mr. King, we welcome you. Would you mind coming to the center, sir?

Mr. KING. Right here, sir?

Senator MOYNIHAN. Wherever is most agreeable to you.

Mr. KING. Mr. Chairman, if I could interrupt, I apologize to everyone for the Governor not being here, but he was notified on Friday. He didn't know until late night before last that he wouldn't be here, but it was just impossible to rework his schedule.

Senator MOYNIHAN. Well, you are here. You are sent here to represent your State and you do it brilliantly. We would like the Governor; we welcome you, sir.

STATEMENT OF ROBERT KING, DIRECTOR, DIVISION OF EMERGENCY MANAGEMENT, STATE OF NEVADA

Mr. KING. Mr. Chairman, Senator Reid, thank you very much. The Governor asked me to convey his appreciation for the opportunity to provide a statement to the committee, and he regrets his inability to be here to present it personally. I would like to read from the Governor's statement, if I might.

Senator MOYNIHAN. You are presenting a statement on behalf of the Governor?

Mr. KING. Yes. This will be the statement of Richard Bryan, the Governor of the State of Nevada.

Senator MOYNIHAN. Fine.

Mr. KING. The Governor begins: Mr. Chairman, distinguished members of the committee, thank you for this opportunity to submit testimony today about the response of the Federal Emergency Management Agency to Nevada's recent request for a Presidential disaster declaration in Henderson, Nevada. I would like to note for the record that Nevada formally requested this declaration on May 9, 1988. Thirty days later, we still do not have an answer.

Before turning to what I believe are serious shortcomings in FEMA's handling of this request, I would like to take a few moments to describe to you what has happened in Henderson. This will repeat some of the things that you have already heard. While many of us saw pictures of the explosions on news programs, those pictures do not begin to describe the force of the blast nor the devastation that followed in its wake.

The May 4th explosion at Pacific Engineering crumbled automobile roofs, blew doors off their hinges, and shattered windows for 3

miles around. Eight miles away at McCarran International Airport, the noise was so loud that employees initially believed a plane had crashed into the terminal. A dozen or more miles away, tall buildings swayed. Hundreds of miles away in California, the two largest explosions registered 3.0 and 3.5 on the Richter scale.

The explosions killed two people, injured 350, and caused damage to homes, businesses, and public utility facilities in excess of $74 million. Many observers have said we were lucky to have as little loss of life as we did. Still the physical and psychological scares suffered by this community will take a long time to heal.

In times of disaster, citizens have a right to prompt action by public officials in seeking relief. Therefore, after the explosion occurred I flew immediately to Henderson to view the site and offer help. Traveling with me were my chief of staff, my emergency management director, and the State's adjutant general. State unemployment, insurance, and industrial regulation personnel were also dispatched to the area and were assembled into a disaster relief team. Soon after, at the request of the city of Henderson and Clark County, I delared a State disaster for that area.

Although the State had been in touch with FEMA as the disaster unfolded, our State's first formal contract with FEMA was during the evening of the disaster when Bob King, Director of Emergency Management, called Mr. Robert Vickers, Director of FEMA Region 9. At that time Mr. King confirmed earlier contacts indicating that Nevada would be requesting a Presidential disaster declaration. He asked that a FEMA damage assessment team be dispatched to the site immediately.

Teams from FEMA and the Small Business Administration arrived the following morning and, working with local and State officials, went into the community to assess the damage to individual homes, to businesses and public facilities. On the afternoon of the next day, the teams regrouped to assess the field data and compile the FEMA report.

As the FEMA team members completed their report on Friday, May 6, the incompleteness of their efforts first became apparent. At that time, State emergency management officials asked FEMA for a monetary estimate of the residential and public facility damage they had viewed. SBA officials, it should be noted, had done this as a matter of course for the businesses they had inspected. FEMA team members refused to provide this information, saying it was no longer required for evaluation of declaration requests.

Finally, in order to arrive at a consistent picture of the overall damage, the State used SBA-provided guidelines to come up with a dollar estimate of residential and public facility damage. These figures, along with my formal disaster declaration request, were transmitted to FEMA, SBA, and the President on May 9th.

We should note here that Nevada's experience with FEMA is past years has been positive. For instance, during the 1986 flood disaster in northern Nevada, FEMA officials had responded quickly and communicated well with State and local officials. At that time, FEMA had been able to process our disaster declaration request within 4 days.

Based on this experience, it was our expectation that a response would be forthcoming by Thursday or Friday, May 12th or 13th. Days passed, however, and we heard nothing. In the meantime, residents and officials in the stricken area were clamoring for some sort of information and relief. Our Emergency Management Division made a number of calls to determine if the State's request had been received and asked when a decision might be expected. Again, no information was forthcoming.

On May 18, two weeks after the disaster, I called General Becton to inquire about the status of our request. General Becton was not in, and his office referred me to Mr. David Cole of FEMA's Congressional Affairs Office in Washington. Mr. Cole informed me that a decision on the request for a disaster declaration would come within 48 hours. Three days later, we heard through press reports that FEMA was denying that it would have a response ready that day. When my staff called to confirm this, they were told that the promise of a 48-hour response was "premature" and that the person who made that reference did not have the authority to do so.

State and local officials were not the only ones getting the run around. In the days following our request to the President, Congressman Bilbray and Senator Reid made repeated attempts to secure information about its status, all to no avail. On May 24th, fifteen days after our formal request, Senator Reid asked FEMA officials to come to his office to brief him on the status of our request, citing "political pressure points." FEMA officials told Senator Reid they would give him no information whatsoever about the delay.

Less than 3 hours later, the Governor's office received a call from a reporter asking for our comment on yet another new wrinkle in the story. According to the reporter, FEMA had been asked by the White House to return to Henderson the next day to reassess the situation. This surprising development came without any notification that Nevada had been turned down on its original request. Indeed, in our experience such a "reassessment" without first being notified that a request had been rejected is unprecedented.

While the decision to send FEMA back to Henderson was highly irregular, FEMA's implementation of this order was even worse. As I have mentioned, our first notice of this reassessment came from the press, not from FEMA itself. With nothing to go on but rumors, my staff contacted FEMA's Region 9 office the following morning seeking to confirm this information. Region 9 officials had no knowledge of the return visit, but offered to check this with Washington.

In the meantime, the FEMA office in Texas issued a press release announcing the return visit. It was not until 12:45 p.m. that day—almost a day after the press was informed of the reassessment—that FEMA officially notified us of it intentions. This came in the form of a call from the second FEMA team leader, who called our emergency management director after arriving in Las Vegas.

This shoddy communication and lack of common courtesy had a number of negative consequences for Nevada. In preparation for a

possible appeal, Henderson and Clark County officials had been working diligently to compile information on additional major damage to residences and businesses. Because they were given essentially no notice of the second visit, Henderson had little time to finish its inspection or to consolidate its painstaking work for the FEMA review.

As it turns out, it took extraordinary pressure from my emergency management director to even get FEMA to look at Henderson's additional damage figures. This was because Henderson had continued to use criteria used by the first FEMA assessment team. The second assessment team subsequently announced that it would use different, more restrictive criteria for assessing major damage. For example, the first FEMA team classified any damage requiring significant structual repair as "major." Under the second team's criteria, to qualify for "major damage" a structure had to be unfit for human habitation. Needless to say, this changing of the rules in midstream left State and local officials with a bad taste in our mouths.

The last straw came on Friday, May 27, 1988. That afternoon, with the second inspection still in progress, my Las Vegas office received an unsettling report from a television station. The reporter told my staff that the station had a tape of a FEMA assessment team member reporting that day, while still in the field, that a Presidential declaration was out of the question because of the high degree of insurance coverage. Again, we had no prior notice of this from FEMA. Indeed, other members of the FEMA assessment—

Senator MOYNIHAN. You were learning about public decisions on television?

Mr. KING. Yes, sir. That is correct.

Senator MOYNIHAN. Sorry. Continue.

Mr. KING. Indeed, other members of the assessment team had assured our emergency management director that a thorough evaluation would take place, and that no notification would come for several days. At this point it seemed clear that FEMA was an agency out of control.

In summary, I have to question the management of an agency which, when dealing with the legitimate concerns of a traumatized community, does a damage assessment in 14 hours, wait 3 weeks to discover it doesn't have enough information upon which to base a decision, returns unannounced for a second look, and then before the assessment is completed, advises the media that a declaration is unlikely because the damage is already covered by insurance.

I must also question a system which seems to have no specific criteria for making a disaster declaration decision. The game as FEMA plays it has flexible rules. Even the criteria for major and minor damage appear to have changed from the first FEMA team to the second.

Finally, we must protest the inability of FEMA to make up its mind or to communicate directly with us. Communication through the media is simply unacceptable.

As public officials, each of us can cite our own horror stories of delays, miscommunication, and insensitivity on the part of bureau-

cratics. By turning a spotlight on such problems, we can help make these agencies more accountable.

We should not forget, however, that these bureaucratic snafus have real effects on real people. The people of Henderson have been through a devastating disaster, one which will affect their lives in myriad ways for years to come.

As always, we have looked first within our own community and State to solve our own problems. To meet those needs which are beyond our resources, we have asked FEMA and the President to make Federal funds available. After 30 days, we believe the people of Henderson deserve both an answer and assistance.

Senator MOYNIHAN. We thank you very much, Mr. King, and thank Governor Bryan for his testimony. You will have to forgive my unfamiliarity with some of these matters, but I would just like to ask you this question that has come up. You mentioned that—was it in 1986?—in northern Nevada there was a flood emergency and FEMA declared a disaster in 4 days.

Mr. KING. That is correct, yes, Mr. Chairman.

Senator MOYNIHAN. We are now into the second month of an event that was recorded on geologic earthquake data in Pasadena, California, and with no answers. Congressman Bilbray was very open in stating that he felt there had been political interference in this decision process. Could I ask you—and you don't have to answer because you are not a political person, but you have obvious experience in this matter—would that be your impression, sir?

Mr. KING. I can't say what the cause is. It is very unusual. I don't know why it would be 4 days at one time and 30 or over 30 days a second time on these kinds of things. Something interrupted the process. I don't know what that is, of course.

Senator MOYNIHAN. You did find it, in your experience——

Mr. KING. Unusual.

Senator MOYNIHAN. Unusual?

Mr. KING. Very unusual.

Senator MOYNIHAN. Very unusual.

Mr. KING. Also, if there was some technical problem, perhaps with our form of application or what not, I would think we would have been told up front. We have had a good relationship with FEMA in the past, and I would think they would have given us some clue if we had made some technical error in the way we did our paperwork.

Senator MOYNIHAN. If that was the case, the first persons to be told would be, logically, you.

Mr. KING. Probably, yes, sir.

Senator MOYNIHAN. And you wouldn't be reading about these things, hearing about them on television.

Mr. KING. That's correct.

Senator MOYNIHAN. Well, thank you very much.

Senator Reid, and then we have two of our colleagues who have joined us.

Senator REID. Mr. King, how many times since this disaster has FEMA contacted State officials about questions on the disaster?

Mr. KING. The one contract that I had was through the telephone call on the second visit. We have generated some calls to FEMA, and back and forth with Region 9, but as far as generating,

initiating a telephone call, the one call from Las Vegas to me in my office in Carson City was the only formal communication.

Senator REID. And when was that communication?

Mr. KING. That was the afternoon of the second visit, which I believe was the 25th of——

Senator REID. Was it after their work had been completed, or during the——

Mr. KING. No, this was when they came in for the second visit, which was on the 25th of May, and work had not started on that second—on that reassessment task.

Senator REID. This is the one that your statement indicated you learned about it through the media, basically?

Mr. KING. That is correct.

Senator REID. I have nothing further, Mr. Chairman.

Senator MOYNIHAN. Thank you, Senator Reid.

Senator Symms, we welcome you.

Senator SYMMS. Thank you very much, Mr. Chairman.

Welcome here to the committee. You make a comment there about politics. I guess my question would be, if FEMA were going to turn it down—and I think all of us feel like and recognize that there has been a disaster, whether it would meet the legal standards of a disaster—but if they were going to turn it down, then I can't understand who benefits the most. I mean, do the Democrats benefit or the Republicans benefit if it is turned down, or do the people just lose?

Mr. KING. I think the people would lose. The latest figures I have, there were about $3 million in uncovered losses that had been identified so far.

As far as the political aspects of it, I am apolitical. It is not my task and I am not——

Senator MOYNIHAN. If I might say, I very specifically said you didn't have to answer that question. That is not within your range.

Senator SYMMS. Well, I guess I would pursue a little further, Mr. Chairman.

I don't mean to get into the politics of it, but we do know that the junior Senator from Nevada is a Democrat and the senior Senator is a Republican, and your boss is running against the senior Senator. I have been through that myself, and I know that politics is a part of our system, and it is a welcome part of it, I might say, but we do have to have a set of rules.

Don't you and the Governor agree with that, that there has to be some set of standards for what qualifies and what doesn't?

Mr. KING. That would seem important to me. SBA has certain criteria that they use, and that is well published.

Senator SYMMS. I don't know how the decision will come out, but it appears that they have gone back through a review process or some such matter, to take a second look at it. I guess they could have come out and just said no, that it didn't qualify, and then this would have been a moot question.

Now let's say, for example, that they review it and they come back and say it doesn't meet the standards. Is the State then asking us to try to pass legislation to make a waiver for this?

Mr. KING. No, sir, the State is not making that request. We have 30 days to come back on appeal, based on valid criteria, so if there

were to be a rejection, normally we have the opportunity to appeal under the Code of Federal Regulations.

Senator SYMMS. In your investigations at the State level—and I will ask the same question to the General when he gets up here—but has there been any evidence brought forth that this might have been sabotage to this plant?

Mr. KING. I have heard nothing in that direction, Senator.

Senator SYMMS. Was there enough left that anyone could really tell?

Mr. KING. Quite a bit of it was vaporized. It was pretty total devastation. There were two good-sized craters there. It sent up a cloud that we finally tracked to Salt Lake City, that was 15 miles long and 6,000 feet deep. You know that was full of metal particles, condensation. Quite a bit of it went up.

The investigation has not been completed. I understand Clark County Fire Department is still working that and had hoped to have something this week in terms of an answer to that, but I haven't heard any indiciation of sabotage.

Senator SYMMS. It is on the news today, Mr. Chairman, that we are short of rocket fuel for our space program and it may delay Challenger flights in 1999, so I think it is a disaster—there is no question—and a tragic trauma, particularly to the ones that were injured and to the families that lost the two that were killed and all the homes that were affected. There is no doubt about the fact that it has been a real disaster, but we have to have rules to determine who is qualified and who isn't.

You think it has been taking too long, but I can't imagine that the State would have been happy if FEMA would have made a 3-day decision and just said no. Isn't that correct?

Mr. KING. Well, we would not be pleased if they said no at any time, of course, but it would have allowed us to go through the normal appeal process. We are not quite sure what to do now, whether an appeal has been made for us, and technically that isn't supposed to be, but we are a little bit confused right now. If we had more information, it would certainly be helpful to us to know what to do next.

Senator SYMMS. Thank you, Mr. Chairman. Thank you very much.

Senator MOYNIHAN. Senator Pressler.

Senator PRESSLER. I have no questions, except I am very interested in learning about this and want to be helpful in any way I can.

Senator MOYNIHAN. Thank you.

Senator REID. Mr. Chairman.

Senator MOYNIHAN. Senator Reid.

Senator REID. Since my name was mentioned earlier, if I could just make a point: Senator Symms, you missed some of the earlier testimony and the information that was produced. The purpose of this oversight hearing is to make sure that FEMA does follow a process. That's the whole concern. We want to make sure that a process has been followed.

It is quite clear at this point that if there is a process, which no one is quite sure of at this time, it hasn't been followed. If the process used in this case is the process that is used in other cases, then

it should be changed, because it has totally been politicized in this instance.

Senator SYMMS. Well, I guess that's what I am trying to find out. I don't understand what the politics of it is.

Senator REID. Well, I could go over a couple of things if you want. Our problem, the State's problem, is that FEMA has seemed to be handling this through the press. After in excess of 3 weeks when we couldn't hear anything from anyone, FEMA officials were called into my office and they basically said—and this is a quote that has been used a couple of times already today—that they couldn't give me any information because of "political pressure points."

Approximately 2 hours after that, our colleague, the senior Senator from Nevada, made a statement that there was going to be a reinvestigation by another region of FEMA, the Texas region, because he was not satisfied with the first report that he read. Now this report, of course, is something that no one else had seen. It was a selective review of the investigation that had been conducted.

So the fact is that FEMA people who obviously were involved in this second review—which was unprecedented, by the way—and the fact is that it was made, the second investigation was reported not by FEMA but by our colleague, and that in addition to that the FEMA officials, when they went there, then made an announcement—they were interviewed by the southern Nevada press—that this wouldn't qualify because of excess insurance, even though they wouldn't take the information from the State about the lack of insurance.

No one wants this to be a negative finding that there is no disaster, but at least it would take away the uncertainty and the appeal process could begin. Right now we are in the never-never land. The State has been told by officials from FEMA in the State of Nevada—they were told there—that there could be no emergency declared, but yet we have nothing from the White House, so the appeals process can't begin.

As we have indicated, we have hundreds of people injured. Some are still in the hospital. Homes still have plywood over the windows. Businesses are closed. I went to a town hall meeting and a couple came to me. They had an auto repair shop. It was destroyed, leveled, flattened, and they of course have no insurance to rebuild that place, so that is what we are concerned about.

Senator Symms, you are someone that stands for fairness, and that's all we are talking about here.

Senator SYMMS. Oh, I certainly agree with that, and I think when we hear from the General, we can clarify the issue.

I do think, though, Mr. Chairman, I might say that after having gone through an experience in my own State, a neighboring State to Nevada, it is just a little bit difficult, I think, when you have a high degree of partisanship between a Governor and a Senator, have people not make charges of politics. It has been amazing how the politics have disappeared in Idaho after the 1986 election. I still have a Democratic Governor, and we get along fine, but it changed when he wasn't running against me, and I think that is just life.

I mean, it doesn't appear to me that anything here, from what I have heard, that anything is very unusual, but there are always people scrambling for——

Senator REID. Well, if there is nothing unusual here, Senator Symms, then we have a real weird place back here. I haven't been here long enough to appreciate the weirdness of it, but if this is how the Federal agencies conduct themselves, then we should both get into another business.

Senator MOYNIHAN. Our job is oversight. This committee has oversight over the Federal Emergency Management Administration, and we mean to conduct it, and we mean to do so in a wholly bipartisan manner.

Senator SYMMS. Great.

Senator MOYNIHAN. We thank you, Mr. King, and will you thank the Governor for his testimony?

Mr. KING. I will do that. Thank you, Mr. Chairman.

Senator MOYNIHAN. Now we will hear from our distinguished director of the agency, General Julius Becton.

General, we once again welcome you to this hearing room. You have been a most exceptionally able and informative witness over the years, as you have had a long and distinguished career in the United States' service.

Sir, two things: I have, just a few moments ago, received a note from the Majority Leader that I have to be at a meeting at 11:30 on next week's legislative agenda, and it involves legislation that I was managing, so I will be leaving and asking Mr. Reid to Chair. But first, sir, can I ask you to introduce your associates, who we welcome.

STATEMENT OF HON. JULIUS W. BECTON, JR., DIRECTOR, FEDERAL EMERGENCY MANAGEMENT AGENCY, ACCOMPANIED BY GRANT PETERSON, ASSOCIATE DIRECTOR FOR STATE AND LOCAL PROGRAMS AND SUPPORT; DENNIS KWIATKOWSKI, ASSISTANT ASSOCIATE DIRECTOR FOR DISASTER ASSISTANCE; AND GEORGE WATSON, ACTING GENERAL COUNSEL

Mr. BECTON. Thank you very much, Mr. Chairman.

I have with me, as a starting point, if I may, on my right is Mr. Grant Peterson, the Associate Director for State and Local Programs and Support.

Senator MOYNIHAN. Mr. Peterson, we welcome you, sir.

Mr. BECTON. Mr. Dennis Kwiatkowski, who works for Mr. Peterson and is the Assistant Associate Director for Disaster Assistance.

Senator MOYNIHAN. Good morning, sir.

Mr. BECTON. And on my left, Mr. George Watson, our Acting General Counsel.

Senator MOYNIHAN. Good morning, sir.

You brought your lawyer. A wise measure for any Senate committee.

Mr. BECTON. Well, sir, with 21 oversight subcommittees and 131 programs, I found it necessary to have all the help I can get.

Senator MOYNIHAN. Sometimes you probably want to bring a chart, as well. Would you proceed, General?

Mr. BECTON. Yes, sir. Sir, I am here this morning to discuss the procedures followed by the Federal Emergency Management Agency in processing Governors' requests for assistance under the Disaster Relief Act of 1974, Public Law 93-288, and to provide a chronology of events related to the Henderson, Nevada explosion. Before describing the process itself, I would like to point out certain unique features of the disaster relief program which makes it different from most other Federal programs.

The authority to declare a major disaster or emergency, thereby triggering supplemental Federal assistance, is vested solely in the President and has not been delegated. The Disaster Relief Act provides what we believe to be an appropriately broad latitude to the President to determine whether or not a situation warrants supplemental Federal assistance.

It is FEMA's job to evaluate the Governor's request, assess the damage, and make a recommendation to the President as to whether the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. The evaluation is based upon the impact of the incident on individuals and families, businesses and farms, as well as State and local government facilities and certain private, nonprofit facilities. The extent and nature of available State and local resources are assessed, as well as the availability of insurance and assistance from volunteer organizations and other Federal agency programs.

In a disaster situation this method for determining the need for Federal assistance is further complicated by the often sudden and unexpected nature of the event, the human suffering and trauma of those affected, and the natural compassion we feel when we see the images of that suffering in the media. I am pleased to say that we at FEMA are proud of the record that we have established in performing the difficult role of assessment and recommendation to the President in a timely, professional, and consistent manner.

Our objective at FEMA is to provide the best professional evaluation and recommendation to the President as quickly as possible. To this end, we try to work very closely with State and local officials who are familiar with the situation in the disaster area, in order to be assured that our assessment includes the best possible information on the severity and magnitude of the incident, the resources available to cope with the hardship, suffering, and damage caused by the incident, and the unmet needs for which the Federal Government can provide assistance.

There are basically nine steps involved in this process, and they are: The incident threatens or occurs. Local government and voluntary organizations respond and gather damage and impact information and convey that information to the State. The State monitors the situation, provides assistance to local governments as needed, and the Governor may declare a state of emergency under State law.

The fourth one: If the situation appears to be beyond the combined response capabilities of the State and local governments, the State requests FEMA to perform a damage assessment. FEMA regional office personnel deploy to the site and perform damage assessment, accompanied by State and local representatives. The

Governor requests a Presidential declaration of a major disaster or emergency and indicates specific assistance required.

Number seven: The FEMA Director—that is I—provides information and a recommendation to the President, based on the Governor's request and findings of the damage assessment teams. The President declares a major disaster or emergency, or FEMA advises the Governor of denial. And, lastly, appropriate notifications are made.

It should be noted that the procedures followed in this process have remained essentially identical over 15 years and have served the disaster-affected citizens effectively, while preserving the decisionmaking authorities of all the Presidents in office throughout that time period.

The length of time required for the completion of this process can vary from incident to incident. From 1980 to the present, there have been 306 Governor requests which resulted in 201 Presidential declarations of major disaster. The average time between the Governor's request and the decision was 6 days. The shortest time we are aware of was approximately 2 hours in the case of Mount Saint Helen's volcanic eruption. At the other end of the scale was a request which took 3 months from initial request to eventual decision.

It is not unusual for FEMA to request additional information from a Governor prior to making a recommendation in order to complete his or her initial request, nor is it unheard of, in the event of a denial of the Governor's request and subsequent appeal, for FEMA to resurvey a disaster area due to the discovery of additional factors or impacted areas of which the Governor was not aware at the time of the initial request.

In a report by the General Accounting Office which examined our process for evaluating Governors' requests for disaster declarations, GAO reviewed 96 major disaster requests. GAO's analysis compared, among other factors, the relationship between political affiliation of the Governor and the Senators and Representatives in the affected areas, with the ultimate decision on the Governor's request and found—and I quote—"little, if any, indication that political factors influenced the outcome."

In the case of the recent explosion in Nevada which prompted Governor Bryan's request for a major disaster declaration in that State, FEMA conducted an assessment of that situation and made its recommendation to the President. However, due to the difficulty of determining the precise degree of insurance coverage, there were serious questions as to the extent of unmet needs which might qualify for Federal assistance. In order to ensure that the President's decision was based on the most complete and accurate information available, the White House requested and FEMA agreed to survey the affected area for a second time prior to the President's decision on the Governor's request. A chronology of these events is attached and I believe, sir, you have a copy of that.

Senator MOYNIHAN. We do.

Mr. BECTON. We realize that a significant time lag can result in an increased number of inquiries from a wide variety of interested parties. In this case some conflict may have been created between our desire to be responsive to inquiries and the need to avoid

giving a possibly incorrect impression of the likely outcome prior to the evaluation of all data. It was our practice throughout this situation, and it will remain our policy and practice in the future, to make no notification of our findings or recommendations until a decision is made by the White House and we are permitted to proceed with notification. This policy may well open FEMA to charges of indecisiveness or evasiveness, as has happened in this situation. However, we continue to feel that it would be inappropriate for FEMA to preempt the decisionmaking authority which rests with the President alone.

Sir, I thank you for the opportunity to appear before you. This concludes my statement, and we will be happy to answer any questions that you may have.

[The attachment to General Becton's statement follows:]

CHRONOLOGY OF EVENTS: NEVADA EXPLOSION

May 4: Explosion occurred at Pacific Engineering and Production Company, approx. 11:48 a.m. State requested assistance for preliminary damage assessment from FEMA Region IX.

May 5: FEMA Region IX team arrived on site and commenced damage assessment jointly with State and local government representatives. FEMA Team Leader accompanied Senator Hecht on tour of the area.

May 6: On site assessment completed. Personnel returned to San Francisco to prepare reports.

May 7: Regional Summary, and Regional Analysis and Recommendation compiled in San Francisco office.

May 9: Regional Summary, Analysis and Recommendation and a copy of Governor's request fixed to FEMA Headquarters, DAP.

May 12: FEMA recommendations delivered to the White House.

May 13: After discussion with White House staff, FEMA provided additional information.

May 18: FEMA advised Governor Bryan that a decision would be reached within 48 hours.

May 23: FEMA staff met with White House staff and discussed the Nevada situation.

May 24: 2:15 p.m. FEMA staff met with Senator Harry Reid regarding Nevada request. 3:30 p.m. White House requested and FEMA agreed to do a resurvey.

May 25: 10:00 a.m. FEMA staff interviewed by Nevada media. 1:00 p.m. FEMA advised Region IX to notify State officials of resurvey. 4:00 p.m. Region VI met with State and local officials in Henderson, Nevada, to plan for damage assessment to begin the next day.

May 26: Damage assessment started. Director and FEMA staff met with Senators Moynihan and Reid.

May 27: Assessment concluded.

May 31: FEMA met with White House staff. Reassessment information received from Region VI.

June 1: Supplemental information provided to White House.

June : Declaration decision.

Senator MOYNIHAN. We thank you, General, for your characteristic open and direct testimony. Sir, as I noted earlier, the Majority Leader has called a meeting with respect to the legislative agenda and I will have to leave.

Mr. BECTON. Yes, sir.

Senator MOYNIHAN. Before I do, I want to just note that I am interested in your statement that the White House requested the second survey. I once—and we are not going to ask you this—but I remember when Donald Rumsfeld was, in effect, chief of staff for President Ford, he had a little set of rules he put out, written rules. He said, "When you call someone in the Government, do not

say 'the White House wants,' because houses don't talk. Say who it is who wants."

Someone in the White House—the President of the United States can't be making decisions like this, shouldn't, but someone delegated has his authority to do so, and it would be interesting to know, if you felt free to discuss it, and if you don't, you do not have to. As far as I am concerned, and others may feel differently, that is covered by Executive privilege. What goes on in the White House is the President's business. Everything is done in his name, but on the other hand, most things are done by other persons.

I also would like to ask, Representative Bilbray did leave us with a set of specific questions.

Mr. BECTON. Yes, sir.

Senator MOYNIHAN. Mr. Reid or Mr. Symms may want to pursue them specifically. If not, sir, I will have to ask as chairman that we can get a written request to them.

Mr. BECTON. Sir, we will answer as many questions as we have the information available, with us.

Senator MOYNIHAN. And what you don't, you will go back and——

Mr. BECTON. We will get back to you.

Senator MOYNIHAN. You have always done so. You have never failed in that regard.

Mr. BECTON. Thank you, sir.

Senator MOYNIHAN. With that, I will have to express my apologies to you and to your associates, and ask Senator Reid if he would assume the chairmanship of this hearing.

Senator REID [presiding]. Thank you, Mr. Chairman.

General Becton, I think it would be very important for us to spend a few minutes going over the very concise chronology of the events that you prepared for us because I think they—as with most things, actions speak louder than words.

We have heard several times that the explosion occurred about noon on May 4th of this year. The State on that afternoon orally requested assistance, preparatory to their filling out the forms that took until the following Monday morning.

The next day, you or your representatives ordered a team of FEMA representatives to come to Nevada. They arrived on the site and commenced damage assessment. The FEMA team leader accompanied Senator Hecht on a tour of the area.

May 6, on-site assessment completed: That's pretty fast work. Two days later you have, as indicated, met the time line that you had completed in earlier events in Nevada and other places. You got right on the job.

Your personnel returned to San Francisco, the regional office, to prepare the reports. The summary and regional analysis was compiled the next day, and I'm sure that people worked long hours. The summary analysis and recommendation and a copy of the Governor's request were telefaxed to FEMA headquarters. This report, about a week later, was delivered to the White House.

Mr. BECTON. That is correct.

Senator REID. So the White House, approximately a week after this disaster, had from you your analysis and recommendations. Is that right?

Mr. BECTON. That is correct, sir. On the 12th.

Senator REID. After discussion the next day with the White House staff, FEMA provided some additional information. On May 18 you indicated, your office indicated through Mr. Cole that the decision would be made within 48 hours.

And in looking at your chronology here I think it is important to note, General, that based on the prior activities and results that your agency had produced, whoever said this, Mr. Cole, was speaking from experience. He knew that this information had been in the office of the White House at that time for 9 or 10 days, and he probably did expect something within 48 hours. As we have learned from the testimony here, the information didn't come within 48 hours, but I don't think Mr. Cole was really out of line in saying that it would be, he thought it would be out in 48 hours. Do you think he was out of line in saying that?

Mr. BECTON. Sir, may I comment? I made an earlier comment as you are talking here.

Senator REID. Sure. Of course.

Mr. BECTON. First, Mr. David Cole is the Director of Congressional Relations. He is not our spokesman.

Senator REID. But you understand the Governor of the state of Nevada called and asked to speak to you, and that is the person he was given? I mean——

Mr. BECTON. I understand that, sir, and I understand that when the call went down to Mr. Cole's office because I was not there, as a matter of routine they receive calls from all public officials if the principal is not available. That was a misstatement on the part of Mr. Cole, and I think within 5 minutes after he said it, he realized that it was something that he could not predict. He is in the audience today and I think that he probably has a very, very red face.

Senator REID. But don't you think, General, that it would have been appropriate for him 5 minutes later, then, to call the Governor and say, "Hey, I'm, sorry I said that, and I have no authority to say that. Why don't you wait and talk to General Becton?"

Mr. BECTON. We made a mistake, sir.

Senator REID. Because you can imagine the Governor, as representing 1,100,000 people out there, made a statement saying, "I have talked to FEMA, and FEMA said we are going to know in 48 hours."

Mr. BECTON. We made a mistake.

Senator REID. Now on the 23d—that is 10 or 11 days after the recommendation, the analysis was given to the White House—again FEMA staff met with the White House and discussed the Nevada situation. The next day, General Becton, at approximately 2:15, I met with four representatives, three or four representatives from your office, and this is where we got into the "political pressure points" and all that stuff that I'm sure we have heard time and time again.

You will have to note that it looks a little unusual, and it could be just coincidence but it looks a little unusual that some 75 minutes later, the White House requested and FEMA agreed to a resurvey. Would you comment that that does look a little unusual?

Mr. BECTON. Sir, as I mentioned in your presence with Senator Moynihan at our informal briefing—at the time that the FEMA

team of four people met with you, they were not aware of the White House request. They did not get that message until they returned to their office.

Senator REID. Again, General, I accept that because I know that you wouldn't say anything unless you believed it, and I accept that, but again, shouldn't I have had the courtesy of a telephone call or something saying, "You know, there is going to be a reinvestigation." The first anybody heard about this was from the media, and that's not right, is it?

Mr. BECTON. Sir, the information about that second request we provided to the State, as we normally do for a reassessment. We did not provide the information to the press. When I use the term "we," I am talking about FEMA.

Senator REID. Okay. I understand you are making a distinction between FEMA and the White House. I understand that, and that is a distinction that we are going to have to address here in our capacity of oversight, to determine if in fact there should be a distinction.

Let me just ask you this: Did FEMA or any of the four people who were in my office discuss my visit with the White House?

Mr. BECTON. I can't answer that question, sir. Let me check.

Mr. KWIATKOWSKI. No, I don't believe so.

Mr. BECTON. The answer is no.

Senator REID. Okay. Now you will note also, interestingly, on the next day the first FEMA contact with anyone in Nevada is with the media. It is not until 3 hours later that the Governor is notified. Is that also a little unusual?

Mr. BECTON. Sir, the State was notified of our return by the region that performed the resurvey.

Senator REID. That isn't what this says, though. It says, "FEMA advised Region 9 to notify State officials on resurvey." That is after FEMA's staff was interviewed by the Nevada media 3 hours earlier.

Mr. BECTON. Sir, may I turn to the person who had direct responsibility, Dennis Kwiatkowski.

Senator REID. Mr. Kwiatkowski.

Mr. KWIATKOWSKI. Senator, the notification of the second team's visit was accomplished through our San Francisco regional office. Any dealings we have with the State normally go from the home region. We contacted the region in the morning, as soon as we could make contact with the appropriate people, and asked them to advise the State that we would be coming in with a second assessment team.

Senator REID. Well, was it the other region, then, that contacted the media?

Mr. KWIATKOWSKI. No sir. There was a press meeting at our headquarters office this morning.

Senator REID. I know, but that was 3 hours before the State was contacted.

Mr. KWIATKOWSKI. And unfortunately, sir, they were advised before we were able to make the contact with the State. It probably should not have happened that way.

Senator REID. Do you understand the perception that is building up here? I mean, I don't think that it takes a rocket scientist——

Mr. BECTON. It was unfortunate. It was unfortunate timing, sir.

Senator REID. Again, the decision, FEMA was able to complete their work shortly thereafter and that report was sent to the White House. FEMA met with the White House again on May 31st. Here it is June 8th, and still no decision.

General, let me ask you a question right off the box here, cut through a lot of red tape, I guess is the word: do you think it would be better that the decision for a declaration of emergency—now first of all, before I ask the question, give us the benefit of your military background. You were a general in what branch of the service?

Mr. BECTON. Sir, I spent thirty-nine and half years in the United States Army. I retired with the grade of Lieutenant General.

Senator REID. And during that period of time you had lots of different responsibilities, did you not?

Mr. BECTON. I was responsible for the defense of NATO in the southern part of Germany. I had about 88,000 soldiers under my control.

Senator REID. So the point I am trying to establish—and I am totally familiar with your military background. It is one of the most impressive I have ever seen. You are a person with the highest qualifications. You are a person of impeccable integrity.

The question therefore is this: You were chosen for this job as head of the Federal Emergency Management Agency because of these qualities you have—a person that has made decisions in the past and certainly, based on your background, somebody that should be able to make a decision. Don't you—well, I am going to ask you this and I won't lead the question—do you feel that it would be appropriate for the head of the Federal Emergency Management Agency to be the person that makes the decision as to whether or not there is a disaster, rather than the White House? Remember, we are going to have Democrats and Republicans in the future, so we are not talking about this administration.

Mr. BECTON. I understand that, sir, and the answer is, I do not feel it is the responsibility or should be the responsibility of the Director of FEMA to make that determination.

Senator REID. Tell me why.

Mr. BECTON. Because the law says that——

Senator REID. Well, I understand that, but we can change the law. Do you think the law should——

Mr. BECTON. I understand that, too, but this is one of the rare occasions, as I stated in my statement, where a Governor makes a request directly to the President of the United States. No one else is involved. They can raise questions in the Congress or anyplace else, but the decision is between the Governor and the President.

I am not an elected official. I think the elected official who has the responsibility for managing that fund should make that decision.

Senator REID. You feel, then, that a political appointee such as yourself is not in a position, politically or otherwise, to make the decision; that it should be in an elected person?

Mr. BECTON. I am saying that the elected official, the head of our country, should make it. I am also saying or suggesting by inference that political appointees such as myself should make recom-

mendations to the President, and I might add, sir, that you have heard the numbers of requests that we have received and the numbers that have been approved. To the best of my knowledge—I have only been there two and a half years—a request has never been turned down, or a statement as to what FEMA had recommended to the President.

Senator REID. So since you have been there, all the recommendations of FEMA have been followed?

Mr. BECTON. We have done our professional work and the President has accepted what we have provided.

Senator REID. Yes. Well, you may have said it better.

Mr. BECTON. I was trying to change the words to make sure that I—I am not suggesting that people follow what we say. I am saying that we are providing professional information.

Senator REID. I understand. Well, I appreciate that. I think that is certainly probative. You believe, based on your experience in the military and as head of FEMA, that the process should remain the same as it is?

Mr. BECTON. That is correct, sir.

Senator REID. Are you aware of any instances where FEMA's recommendations have been released prior to a decision of the White House? As you are aware here, that is uncontroverted. The evidence here is uncontroverted that the Senior Senator from Nevada reviewed your report and said that it wasn't sufficient and recommended to the White House that another investigation take place. Have you ever heard of that happening before?

Mr. BECTON. I am not aware of any information that we have provided to the President being released by the White House prior to a decision.

Senator REID. Except in this instance, is that right?

Mr. PETERSON. That's correct.

Mr. BECTON. Yes, sir, that's correct.

Do you have any examples?

Mr. PETERSON. No. The recommendations are confidential information.

Senator REID. I have a number of the other questions but we will call now on Senator Symms.

Senator SYMMS. Thank you very much, Mr. Chairman.

General, do you think that there were legitimate nonpolitical reasons for sending in a second review team?

Mr. BECTON. I believe yes, sir.

Senator SYMMS. Well, then, if that is the case——

Mr. BECTON. If I may qualify that, the information which we have, which I have personally, is that there was still some concern about the level of insurance that was available and what was being reported.

Senator SYMMS. Well, I might just make an observation, then. It may be that if there is criticism here, it sounds to me like—and I would say this, Mr. Chairman and General—that you folks have done this very ably and very well, and do have a good procedure to follow, and so I compliment you on that, but it sounds like if there is anybody who wants to complain, maybe they should complain to the White House, Senator Baker, or whoever is in charge of that down there, in terms of the White House staffing, and not to com-

plain to the General and FEMA, because it sounds to me like FEMA has operated very ably.

As I said at the outset, Mr. Chairman, again I think that we do need to review these things and be sure everything is working fine, but in election years there is always the political clamor. Fortunately, the General doesn't have to be concerned about that, but politicians will always want to see who is going to get credit for something. It is not like the Salvation Army, where they always say there is no limit to how much good you can do if you don't care who gets credit for it.

When people are running for office, they are always more interested in who is going to get credit for it, and there is no question about it, in the State of Nevada this year you have the Governor running against the senior Senator. It's no secret. It's the way the system works, so I hope that we don't give FEMA an undue hard time over what some of the elected officials may do in the spirit of a hotly contested election that is taking place in your State. Frankly, a little competition is always healthy, I think, for this system. We have had that in my State and I think it has always been for the good of the order.

General, when did you retire from the Army, just for my information?

Mr. BECTON. August of 1983.

Senator SYMMS. August of 1983, so you went in in 1944, then?

Mr. BECTON. I actually went in on December 28, 1943. I joined the Army Air Corps Enlisted Reserves as a 17-year-old. I have just identified my age.

Senator SYMMS. Golly, I'll tell you, you're looking pretty good.

Mr. BECTON. Thank you very much, sir.

Senator SYMMS. Thank you, Mr. Chairman. I don't have any further questions right now. I may have some later.

Senator REID. Thank you. Senator, we tried to get the White House to come to give us their views, but they respectfully declined in a letter from Mr. Kranowitz, Assistant to the President, so we would love to have the White House in to hear what they had to say, but they simply wouldn't do so.

General, I think we established earlier that there has never been a so-called reexamination. Is anyone aware of one?

Mr. BECTON. No, sir, we are not.

Mr. PETERSON. You mean prior to a declaration?

Mr. BECTON. You are talking about prior to a declaration or prior to a denial?

Senator REID. Yes, that's right. Senator Moynihan said that you wouldn't have to answer the question, and I certainly would follow his prerogative as being chairman of this subcommittee, but I will ask the question and then you can decide whether you want to answer it. Who have you dealt with in the White House? Who has FEMA dealt with? Who has made these decisions in the White House?

Mr. BECTON. I frankly, of my own personal knowledge, Senator, cannot tell you exactly how the decisions work there. I doubt if my other people from FEMA—well, let's ask the question.

Mr. KWIATKOWSKI. We are not really sure what the decisionmaking process would be over there, who reviews our information or——

Senator REID. It was just like Senator Moynihan said, then. The White House called. Is that it? I mean, this house called and there was no person identified with it?

Mr. KWIATKOWSKI. We get notifications from individuals but we are not sure who sees the package and how the decisions are made.

Senator REID. I understand. Then you don't know who made the decision to request the reexamination?

Mr. KWIATKOWSKI. That is correct.

Senator REID. Could you tell me why another region was chosen, rather than to send Region 9 back again?

Mr. BECTON. Sir, we have found that whether we are talking about the initial assessment or a reassessment based upon a denial and an appeal, it is always advisable to send a new set of eyes in. As a matter of practice I think that is correct.

Mr. KWIATKOWSKI. That is correct, sir. On a normal appeal we will always send in, as a matter of fact, a headquarters team on a formal appeal, with the home region and with some other regional counterparts to take a completely impartial look.

Senator REID. I couldn't hear that. I'm sorry.

Mr. KWIATKOWSKI. In a normal, formal appeal process we will send in individuals from our Washington office, along with people who did the initial survey, and also possibly people from other regions, to take a completely impartial look.

Senator REID. Do you know how many disasters have been declared by the Presidency in the last 5 years? Is that a figure at your disposal?

Mr. BECTON. We can provide it for the record, but you will recall in my statement I made, from 1980 until current——

Mr. KWIATKOWSKI. That was since 1974, sir, since the law was passed, 306.

Senator REID. Pardon me?

Mr. KWIATKOWSKI. There were 201 declarations out of 306.

Senator REID. Yes; I thought you said around 200.

General, we talked about Saint Helen's, which obviously there was a real problem there, and that took 2 hours, to the time I think you said one took 90 days or thereabouts. Is that right?

Mr. BECTON. That is correct.

Senator REID. Does your agency have an average as to how long it takes? Even in a situation like in Henderson, where we all agree to the devastation that occurred, your work was completed there very quickly. Now obviously it was in an area that you could travel easily. You didn't have to drive, or float down rivers and all that kind of stuff, but do you have an average as to how long it takes?

Mr. BECTON. Yes, sir. My statement has a statement. It is 6 days.

Senator REID. Thank you very much. I missed that. I must have been trying to read ahead.

Do you think that your agency has learned something as a result of what has transpired in this instance—that is, as to how you will handle future disasters? For example, we have talked about a number of times here where you or members of your staff have indicated, you know, "That was a mistake. We shouldn't have done

that." Do you think you have learned things as a result of this process that has taken place the past month?

Mr. BECTON. Well, I have not had a formal discussion with Grant but I have, in my notebook, the very first page, a statement: "We need a 'lessons learned' memo to all possibly involved personnel," and that memo, from my standpoint, will reiterate our statement as to who speaks for FEMA, and the fact that we will continue to be objective, unbiased, nonpartisan, in our assessment.

Senator REID. You see, General, I understand the statement that you have made on a number of occasions to both Senator Moynihan and myself and have made here publicly today, and I understand in reflection some of the things that were told to me by your staff when they visited me in my office at 2:15 in the afternoon: Basically, that it is important to keep this out of the political process, so that Senator Reid or Senator Symms or some other Senator isn't calling you and saying, "General Becton, I understand where we are in the loop here, and I want you to go back and do this" or "I want you to do that" or "you haven't done this and you should do this." It's better that this thing stay out of the political arena, but if it is going to stay out during your part of the ball game, it should stay out of all the ball game, that is, when the recommendations are given.

I think if this committee has learned anything, as your agency I am sure has, it is that we have to make sure that once your recommendations arrive at the White House, that we don't have a paper that is passed around. Let's say there is an earthquake—I am using this for purposes of an example—in California, a State that has 45 Members of the House and of course two Senators. We don't want this recommendation that you come up with for the State of California to be circulated among the Democratic Members of the House or the Republican Members. It shouldn't be circulated at all. It should be off limits to the political arms.

So I think what you are trying to accomplish is excellent. I don't think that I should be able to pressure you into declaring Henderson an emergency if it isn't an emergency, a major disaster, but I also think that that process should follow the whole loop. I think that's where we need some help from your agency, is to find out how we can make it a complete loop, that it stays out of the political process.

I don't expect you to respond at this time, but perhaps once this declaration is declared one way or the other, maybe you could sit down and, with your people, give us some input. We may not follow it. Give us some input as to how we could do a better job of accomplishing this. We are not going to change, I repeat for the third time today, what has transpired in relation to Henderson, but maybe we can change it in the future, so that if an emergency happens in Missouri, New York, New Jersey, wherever it might be, that we don't have a battle of the delegations according to who is President, a Democrat or a Republican, and that is, in effect, what the status is here.

I want to close by saying, General, that—unless there is something further from Senator Symms and someone else—that I really appreciate your attentiveness, and I want you to accept my apologies for raising my voice on an occasion or two to you and your

staff, because this was a very tense time for all of us. It involved deaths and injuries and lot of hurt feelings by people, and I repeat, what we want is to make this process apolitical. You are an apolitical person, and that's the way this agency should be.

I would hope that this hearing—and we are going to keep the record open for 30 days, so that written questions, responses, and additional statements can be submitted. In the process, unless you have something further to say, this hearing will be adjourned. Do you have anything further?

Mr. BECTON. No, sir. Thank you for an opportunity to present our case.

Senator REID. This subcommittee stands in adjournment until call of the Chair.

[Whereupon, at 11:55 a.m., the subcommittee adjourned.]

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